

ARTICLE THREE

CONCURRENCY

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ARTICLE THREE

CONCURRENCY

3.00.00 *GENERALLY*

3.00.01 Purpose

The purpose of this Article is to describe the requirements and procedures necessary to implement the concurrency provisions of the Jefferson County Comprehensive Plan.

3.00.02 Definitions

Certain terms, as used in this Article, have the meanings given below.

A. *Availability.* Means that at a minimum the facilities and services will be provided in accordance with the standards set forth in Rule 9J-5.0055(2), F.A.C.

B. *Concurrency.* Means that the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

C. *Concurrency Management System.* The procedures and/or process that Jefferson County uses to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

D. *Development.* Means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels. The following activities or uses shall be taken for the purposes of this Code to involve "development":

1. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.
2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.

3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction", as defined in Chapter 161.021, F.S.
4. Commencement of drilling, except to obtain soil samples, or as a part of a permitted mining, or excavation on a parcel of land.
5. Demolition of a structure.
6. Clearing of land as an adjunct of construction.
7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

The following operations or uses shall not be taken for the purpose of this Code to involve "development":

1. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.
2. Work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, powerlines, towers, poles, tracks, or the like.
3. Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.
4. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.
5. The use of any land for the purpose of growing plants, crops, trees, and other agricultural and forestry products; raising livestock; or for other agricultural purposes.
6. A change in use of land or structure from a use within a class specified in this Code to another use in the same class.
7. A change in the ownership or form of ownership of any parcel or structure.
8. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

"Development," as designated in this Code, includes all other development customarily associated with the designation unless otherwise specified. When appropriate to the

context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities is not development. Reference to particular operations is not intended to limit the generality of this definition.

E. Development Order. Shall include a zoning change, subdivision preliminary platting, building permit, site development plan, and other land use applications as determined by the County.

F. Development Permit. See definition in Section 9.00.03 of this Code.

G. Public Facilities and Services. Those items covered by the Jefferson County Comprehensive Plan, required by Section 163.3177, F.S., and for which level of service standards must be adopted under 9J-5, F.A.C. These are: roads; sanitary sewer; solid waste; drainage; potable water; and parks and recreation.

3.01.00 GENERAL RULES

3.01.01 Concurrency Determination Required

A determination of Concurrency shall be required prior to the issuance of any development permit. If a development will require more than one development permit, the determination of concurrency shall occur prior to the issuance of the initial development permit.

3.01.02 Expiration of Determination of Concurrency

A concurrency determination shall automatically expire simultaneously with the expiration of the development permit to which it applies. In the event that the development permit does not have a specified expiration date, the determination of concurrency shall expire one (1) year from the date of the issuance of the development permit. In the event that a time extension is granted prior to the expiration of the development permit, then the accompanying determination of concurrency shall be automatically renewed for the duration of the extension given to the accompanying development permit. Should the extension equal or exceed one (1) year from the date of the issuance of the initial development permit, a new concurrency review shall be performed for which a reasonable fee shall be assessed in order to defray the cost of the new review.

3.01.03 Burden of Proof

The burden of showing compliance with the adopted levels of service and meeting the concurrency evaluation shall be upon the applicant. The Planning Official or his/her designee will direct the applicant to the appropriate staff to assist in the preparation of the necessary documentation and information.

3.02.00 *EXEMPTIONS*

3.02.01 Vested Rights

Nothing in this Article shall be construed or applied to constitute a temporary or permanent taking of private property without just compensation or abrogation of vested rights.

In matters involving concurrency questions vested rights shall be determined in accordance with Section 1.08.00.

3.02.02 Necessary Findings

Any applicant for a development order who alleges that this Article, as applied, constitutes a temporary or permanent taking of private property or an abrogation of vested rights must affirmatively demonstrate the legal requisits of the claim.

3.02.03 Exemptions

Upon making a determination pursuant to Section 3.02.02, the Planning Official may give full or partial exemptions from concurrency requirements, for individual public facilities and services, provided that public or private improvements, dedications or contributions have already been completed or are required to be provided under the terms of the vested final local development order.

3.03.00 *CONCURRENCY REVIEW*

3.03.01 Generally

Jefferson County shall use the procedures listed below to determine compliance of an application

for a development permit with this concurrency management system. At the time of application for a development permit, a concurrency evaluation shall be made to determine the availability of the facilities or services required to be concurrent. An applicant for a development permit shall provide the County with all information required so as enabling the concurrency evaluation to be made. Upon receipt of a complete development application, the Planning Official or his/her designee shall perform the concurrency evaluation for each of the public facilities and services.

3.03.02 Procedure

A. Roads

1. Generally. The evaluation for roads shall compare the existing level of service standards to the adopted level of service standards established by the Jefferson County Comprehensive Plan for the impacted roads. The level of service shall be based upon the existing roads, including any proposed improvements to those roads, meeting the minimum requirements for concurrency set forth in Section 3.03.03.
2. Submittals. The applicant for a development permit shall submit to the County, along with the application for a development permit, the following information:
 - a. The capacity (C) of the impacted road segment, at the adopted level of service, using the most recent FDOT Generalized Level of Service Tables.
 - b. A determination of the number of trips (D) generated by the proposed project during the peak hour(s), using the most recent edition of the ITE Trip Generation Report.
 - c. The existing volume (V) of impacted road segment(s) as given in the Jefferson County Comprehensive Plan, Traffic Circulation Element, or based on most recent available traffic counts provided they are approved by the Planning Official.
 - d. The summation of items (b) and (c) above (i.e. $D + V$). This sum shall be known as N, for "new volume" upon the impacted road segment(s).
 - e. The ratio (as a percentage) of item (d) to item (a) (i.e. N/C).
3. Evaluation. For developments where item (e) above exceeds one-hundred (100) percent, concurrency will not be met unless one of the minimum requirements listed in Section 3.03.03 is met.

B. Potable Water

1. Submittals. The applicant for a development permit shall submit, along with the application for a development permit, proof that sufficient capacity exists as demonstrated by one or more of the following:
 - a. If the service provider is other than an on-site potable water well, documentation will be required from the provider that the project is within its service area and that it has the capacity to serve the project as proposed, at or above the adopted level of service. If the ability of a provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the County, the applicant may be required to provide evidence of a contract with the service provider, indicating the provider's commitment and ability to serve the proposed project; and/or
 - b. Permits issued by the applicable Water Management District, pursuant to 40D-2, F.A.C. (NFWFMD), 40B-4, F.A.C. (SWWMD) and 17-22, F.A.C. for a potable water well to serve the development; and/or,
 - c. Permits issued by the HRS Jefferson County Public Health Unit.
2. Presumption of Available Capacity. A presumption of available capacity shall be rendered by the Planning Official upon receipt of all applicable permits.

C. Wastewater

1. Submittals. The applicant for a development permit shall submit, along with the application for a development permit, proof that sufficient capacity exists as demonstrated by one or more of the following:
 - a. If the proposed service provider is other than an on-site septic system, documentation will be required from the provider that the project is within its service area and that it has the capacity to serve the project as proposed, at or above the adopted level of service. If the ability of a provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the County, the applicant may be required to provide evidence of a contract with the service provider indicating the provider's commitment and ability to serve

- the proposed project; and/or,
 - b. All applicable HRS permits for an on-site septic system, pursuant to 10D-6, F.A.C., are obtained; and/or,
 - c. All applicable DER permits for wastewater facilities, pursuant to 17-6, F.A.C., are obtained.
2. Presumption of Available Capacity. A presumption of available capacity shall be rendered by the Planning Official upon receipt of one of the above.

D. Drainage

1. Submittals. The applicant for a development permit shall submit, along with the application for the development permit, proof that sufficient capacity exists as demonstrated by one or more of the following, which are applicable to the development:
- a. All applicable DER permits for stormwater management systems, pursuant to 17-25, F.A.C. are obtained; and/or,
 - b. All applicable DOT permits for drainage connections, pursuant to 14-86, F.A.C. are obtained; and/or,
 - c. All permits issued by the applicable Water Management District, pursuant to 373.451 - 373.4595, F.S. (the "SWIM Act"), and 40B-4, F.A.C. (SWWMD rules) are obtained.
2. Presumption of Available Capacity. A presumption of available capacity shall be rendered by the Planning Official upon receipt of the applicable DER, DOT, and/or applicable Water Management District permits.

E. Solid Waste

1. Countywide Presumption of Available Capacity.
The regional landfill believes they have ample capacity for any development until the year 2040.

F. Recreation and Open Space

1. Countywide Presumption of Available Capacity. Based upon the data and analysis contained in the Jefferson County Comprehensive Plan, adequate capacity exists for estimated demand for park and open space facilities through the planning period (2001-2010). Therefore, a presumption of available capacity for all development shall be rendered by the Planning Official for the period beginning December 13, 1990 through the planning period. At such time, the available capacity for park and open space facilities shall be re-assessed and a determination made as to whether the presumption of available capacity is to be continued. The only exception to this general presumption of capacity relates to new residential developments of fifty (50) or more units. Such developments shall dedicate parkland at the rate of five (5) acres per one thousand (1000) residents.

3.03.03 Minimum Requirements for Concurrency

In order to obtain a determination of concurrency, one of the following conditions must be satisfied for each of the public facilities and services, and such condition given in the determination of Concurrency.

- A. The necessary public facilities and services are in place at the time the development permit is issued; or
- B. The development permit is issued subject to the condition that the necessary public facilities and services shall be in place when the impacts of the development occur; or,
- C. The necessary public facilities and services are under construction at the time the development permit is issued; or,
- D. The necessary public facilities and services are guaranteed in an enforceable development agreement, pursuant to Sections 163.3220 through 163.3243, F.S.; or,
- E. The necessary public facilities and services are the subject of a binding executed contract between the County and a contractor which provides for the commencement of the actual construction of the required public facilities or services or the provision of services within one (1) year of the issuance of the development permit.

3.03.04 Meeting Concurrency

Should a development not pass the above concurrency test, several strategies may be used to rectify this, including the following:

- A. A plan amendment which lowers the adopted level of service standard for the affected facilities and/or services.

- B.** A renegotiated binding contract between the County and the developer.
- C.** A renegotiated enforceable development agreement, which may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S.
- D.** A change in the funding source.
- E.** A reduction in the scale or impact of the proposed development.
- F.** Phasing of the proposed development.

3.04.00 *ADOPTED LEVELS OF SERVICE*

The adopted Levels of Service (LOS) standards for public facilities and services as contained in the Jefferson County Comprehensive Plan are hereby adopted by reference.

3.05.00 *APPEALS*

Appeals related to determinations of concurrency shall be made pursuant to the provisions in Section 9.11.00.